



Economic Impact Analysis Virginia Department of Planning and Budget

9 VAC 25-720 – Water Quality Management Planning Regulation
Department of Environmental Quality
October 16, 2006

Summary of the Proposed Regulation

The State Water Control Board proposes to amend the Water Quality Management Planning (WQMP) Regulation so that the total phosphorus waste load allocation figure is consistent with the total maximum daily load (TMDL) study and the discharge limitation in the Virginia Pollution Discharge Elimination System (VPDES) permit issued to Tyson Foods (Glen Allen facility).

Result of Analysis

The benefits likely exceed the costs for this proposed regulatory change.

Estimated Economic Impact

In November 2005, the Department of Environmental Quality (DEQ) reissued a discharge permit for Tyson Foods' Glen Allen, VA processing plant. The total phosphorus limit allowed by this permit, and recommended by the TMDL study, is 409 lbs. per year. Coincidentally, at the time DEQ issued this discharge permit, total phosphorus waste load allocation contained in this regulation (9 VAC 25-720) was in the process of being finalized. Because the WQMP Regulation's allowable total phosphorus limit (expressed in lbs per year) was calculated using slightly different assumptions than used to calculate allowable phosphorus discharge under the TMDL study for Tyson Food's permit, Tyson Foods' phosphorus allowance was listed in the WMQP Regulation as 326 lbs per year.

DEQ proposes to re-amend the WQMP Regulation so that it is consistent with Tyson Food's discharge permit. DEQ reports that the permit issued to Tyson Foods allows discharge levels that are stringent enough to protect James River basin water quality; therefore this regulatory change will not have an adverse impact on the public use of affected waterways. This

proposed regulatory change will benefit the citizens of the Commonwealth, and Tyson Foods particularly, by removing an inconsistency in public documents (Virginia Administrative Code and discharge permits accessible by the public) that might cause confusion. Absent this regulatory action, and because the more restrictive allowance would have applied, Tyson Foods would have had to either secure total phosphorus credits for the difference in their permitted discharge level and the discharge allotted to them by the current WMPQ Regulation (409 lbs/yr-326 lbs/yr =83 lbs/yr) or upgrade their plant so that these total phosphorus credits would be unnecessary. This proposed regulatory action will save Tyson Foods the cost of buying those total phosphorus credits (or upgrading their plant). Since it is probable that Tyson Foods would have increased the price of their product to help defray the additional cost incurred, this proposed regulation will likely also help keep poultry prices down for consumers.

Businesses and Entities Affected

Tyson Foods and its 580 employees will be affected by this proposed regulatory change.

Localities Particularly Affected

Henrico County, where the Tyson Foods processing plant is located, will be particularly affected by this proposed regulatory action.

Projected Impact on Employment

This proposed regulatory change will likely keep employment levels at the Tyson Foods' plant at their present levels. If this regulatory action were not promulgated, employment at Tyson Foods could potentially decrease.

Effects on the Use and Value of Private Property

This proposed regulatory change will likely stop Tyson Foods' costs from increasing by either 1) the value of total phosphorus credits that they would have had to buy in order to discharge the amount of phosphorus allowed by their permit or by 2) the cost of upgrades to their processing plant that would have rendered additional total phosphorus credits unnecessary. Absent this regulatory change, Tyson Foods' profits would have likely decreased by the price of the needed total phosphorus credits (or plant upgrades) minus the portion of that cost that they may have been able to pass on to their customers. A market for nutrient credits is just being established so no estimates are available for the cost Tyson would have incurred to discharge 409

lbs of phosphorus per year. Tyson Foods estimates, however, that plant upgrades would have cost millions of dollars.

Small Businesses: Costs and Other Effects

No small businesses in the Commonwealth will be affected by this proposed regulatory change.

Small Businesses: Alternative Method that Minimizes Adverse Impact

No small businesses in the Commonwealth will be affected by this proposed regulatory change.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.